

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13226, of Mr. & Mrs. Haskel Small, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the side yard requirements (Sub-section 3305.1), the rear yard requirements (Sub-section 3304.1) and the lot occupancy requirements (Sub-section 3303.1) for a proposed addition to an existing dwelling in an R-1-B District at the premises 3220 44th Street, N.W., (Square 1606, Lot 61).

HEARING DATE: April 23, 1980
DECISION DATE: May 7, 1980

FINDINGS OF FACT:

1. The application was filed in the name of Mr. & Mrs. Haskell Small. The application form reflects that they are the owner of the property. At the public hearing, it was determined that Mr. & Mrs. Small do not own the property. They have a contract to purchase the property from the present owner, Marta Contrera. A copy of said contract was submitted for the record, and is marked as Exhibit No. 31. In addition, Ms. Contrera submitted a letter dated April 28, 1980, marked as Exhibit No. 34 of the record, authorizing Mr. and Mrs. Small to file the application.

2. The subject property is located in an R-1-B District at the southwest corner of the intersection of 44th and Macomb Streets, N.W.

3. The lot has fifty feet of frontage on Macomb Street and 85.44 feet of frontage on 44th Street. It has a total area 4272 square feet.

4. The lot is improved with a two story detached single family dwelling known as 3220 - 44th Street. Because the site fronts on two streets, the front of the lot may be on either street. For zoning purposes, the Macomb Street side has been designated as the front of the lot.

5. There is an existing two-story cinderblock accessory building located in the rear yard of the dwelling. The accessory building was constructed in 1972, and is in compliance with the Zoning Regulations. It is approximately twenty feet wide by thirty feet long. It is located approximately twelve feet from the dwelling. Its west wall abuts the west side lot line and its south wall is slightly more than a foot from the south or rear lot line.

6. The building was formerly used as an artist's studio by the owner of the dwelling. It is currently vacant and unused.

7. The applicant proposes to demolish an existing porch located at the rear of the first floor of the dwelling. The applicant further proposes to construct an addition to the dwelling to connect the house to the accessory building. The addition would also provide for expansion of the existing kitchen on the first floor, and would contain a closet and additional storage on the second floor.

8. As part of the renovation to accompany the addition, the applicant proposes to eliminate the existing one-car garage in the basement of the house. The lower floor of the accessory building will contain a one-car garage, and storage. An existing stall shower will be removed from the upper floor of the accessory building. The exterior appearance of the accessory building will be modified by the addition of windows, stucco panels, and other architectural details.

9. The applicant is a concert pianist who proposes to use the upper floor of the present accessory building as a piano studio. He would use it for practice and to compose music. He would also teach music to a small number of students, with no more than one student on the premises at any one time.

10. The existing building is cinder block. All new windows will be either double or triple glazed. Insulation to a minimum factor of R-13 will be provided on the inside walls. The Board finds that if, as a minimum, all such measures are provided, no objectionable noise will emanate from the building.

11. The connection between the house and the accessory building will combine both structures into one building under the Zoning Regulations. As such, the combined building presently abuts the east side lot line. In the R-1-B District, an eight foot side yard is normally required. Thus, a variance of eight feet would be required.

12. The combined buildings presently is 1.34 feet from the rear lot line. A rear yard of twenty-five feet is required. Thus, a variance of 23.66 feet from the rear yard is required.

13. The present building occupy 1,639.23 square feet of the lot. The R-1-B District permits a maximum lot occupancy of forty percent, or 1,708.8 square feet. The addition will occupy 282.74 square feet, for a total occupancy of 1,921.97 square feet. A variance of 213.17 square feet is thus required.

14. None of the additional construction proposed by the applicant will intrude upon the rear or side yard which would normally be provided if there were no accessory building on the site.

15. The applicants desire the addition to provide an all-weather interior connection between the house and the studio. The additional interior space will also help to enlarge a small existing kitchen.

16. Advisory Neighborhood Commission - 3D, by letter dated April 18, 1980, noted several issues. The ANC was concerned that the piano studio might have an adverse effect because of the potential noise if the building was not adequately soundproofed. The ANC was further concerned that the enlarged structure would be attractive for use for non-residential purposes. The ANC further noted the existing unattractive facade of the accessory building, and cited the applicant's proposed improvements as beneficial to the neighborhood.

17. Other residents of the immediate neighborhood expressed similar positions to those taken by the ANC. The owners of the abutting property sent letters to the record indicating no objection to the proposal. One of those owners cited the same issues as the ANC.

18. As to the issues and concerns raised by the ANC and other residents, the Board has previously determined in Finding of Fact No. 10 that there should be no adverse noise effects. The Board strongly urges the applicant to take all reasonable measures beyond those already cited as a minimum to minimize objectionable noise emanating from the building. As to future use, all that is before the Board is what is specifically proposed in this case. Any future potential use which is not permitted by the regulations or any additional construction cannot be approved unless first considered by the Board as a new application. As to the existing accessory building, the Board has determined that it was built in compliance with the Zoning Regulations. The architectural improvements cited by the applicant, as shown in Exhibits 18 and 27 of the record, will make a substantial improvement in the exterior appearance of the building.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the requested variances are area variances, the granting of which requires the showing of some exceptional condition of the property which creates a practical difficulty for the owners. The Board concludes that the existing location of the accessory building on the side lot line and close to the rear lot line is such an exceptional condition. The Board concludes that strict application of the regulations, to require the demolition of portions of a structure which were properly erected or to preclude interior access from the house to the studio, would create a practical difficulty for the applicant.

The Board further concludes that the modifications proposed to be made to the property by the applicant will represent a substantial improvement in the appearance of the building which will be beneficial to the neighborhood as a whole. The Board concludes that it has accorded to the Advisory Neighborhood Commission the "great weight" to which it is entitled. The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. It is therefore ORDERED that the application is GRANTED.

VOTE: 5-0 (Charles R. Norris, William F. McIntosh, Connie Fortune, Walter B. Lewis, and Leonard L. McCants to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

7 JUL 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13226, of Mr. & Mrs. Haskell **Small**, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the side yard requirements (Sub-section 3305.1), the rear yard requirements (Sub-section 3304.1) and the lot occupancy requirements (Sub-section 3303.1) for a proposed addition to an existing dwelling in an R-1-B District at the premises 3220 44th Street, N. W., (Square 1606, Lot 61).

HEARING DATE: April 23, 1980

DECISION Date: May 7, 1980

DISPOSITION: Application granted by a vote of 5-0 (Charles R. Norris, William F. McIntosh, Walter B. Lewis, Connie Fortune, and Leonard L. McCants to grant).

FINAL DATE OF ORDER: July 7, 1980

FINDINGS OF FACT:

1. By Order dated July 7, 1980, the Board granted the application.

2. By letter dated July 17, 1980, the architect for the applicant requested the Board to approve modified plans for the proposed addition.

3. The plans, a copy of which is marked as Exhibit No. 40 of the record, show that minor modifications have been included since the proposed addition was approved by the Board.

The modifications include:

(a) A change in the shape of the roof and the addition of three skylights;

(b) A change in the style of window;

(c) Changes in the location size and style of windows in the studio.

4. None of the modifications affect the areas of relief requested by the applicant.

5. The abutting property owners and the single member district ANC Commissioner submitted letters advising that they had seen the revised plans and did not object to the changes.

CONCLUSIONS OF LAW AND OPINION

The Board concludes that the modifications requested are minor in nature, that the material facts which the Board relied upon to grant the application are unchanged, and that the modifications requested do not change the extent or nature of the relief which the Board previously granted. It is therefore ordered that the request to modify the plans is granted, that the plans marked as Exhibit No. 40 of the record are hereby approved, and that in all other respects, the Order of the Board dated July 7, 1980 remains in full force and effect.

DECISION DATE: July 23, 1980

VOTE: 4-0 (Walter B. Lewis, Charles R. Norris, William F. McIntosh and Connie Fortune to approve, Leonard L. McCants not present, not voting).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

15 AUG 1980

ATTESTED BY:

Steven E. Sher
Steven E. Sher
Executive Director

15 AUG 1980

FINAL DATE OF ORDER: 16 AL

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."